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May 10, 2001

Acting President Carol Murphy
Board of Public Utilities
2 Gateway Center
Newark, NJ 07102
Attn: Peggy Nelson

**RE: New Jersey Propane Gas Association
One Call System**

Dear Ms. Nelson:

This will confirm our meeting for Monday, May 14, 2001 at 3:00 p.m. at your offices. As I explained in my initial request for the meeting, my client has been in negotiations with representatives of the BPU, specifically former Chief of Staff John Valeri and Director Jim Giuliano since November 2000. Most recently, we met with Mr. Giuliano, Mr. Stanziola and Mr. Ziemba in the hopes of reaching a resolution of our issues. Unfortunately, we believe we have reached an impasse with staff and may very well need Board intervention.

Rather than reiterate characteristics of our industry here, I am enclosing a copy of a letter dated January 18, 2001 to Mr. Valeri outlining our position as to why the method of operation of the New Jersey One Call System does not appropriately address the unique circumstances of our industry. Although we believe there are grounds to contest the overall jurisdiction of the BPU vis-a-vis the propane industry, it is and has been our goal to amicably resolve the matter. My client believes the One Call program can and should be adjusted to not simply accommodate the particular circumstances of our industry, but more importantly, to accomplish the true goals of the One Call program. As presently administered, my clients are being burdened administratively and financially without a concomitant benefit to the public.

Peggy Nelson
May 10, 2001
Page 2

One of our major areas of contention is the question of whether New Jersey One Call is in fact complying with the statutory guidelines of the Underground Facility Protection Act N.J.S.A. 48:2-73 et seq. You will note on the attachment to our January 18 letter to Mr. Valeri, we provided Utiliquest billing reports which show there is a lack of "site specific" information on requests for mark-outs. In the definition section of the statute N.J.S.A. 48:2-75, "site means a specific place where excavation work is performed or to be performed and shall (emphasis added) be identified by street address referenced to nearest intersecting street ...". Again, at N.J.S.A. 48:2-82, section (4) an excavator is required to provide the "specific site location." The agency's own regulations also define site to be "specific place where excavation is performed" N.J.S.A. 14:2-2.1 You will note on our attachments to Mr. Valeri's letter, there are numerous examples of no actual street address, simply a reference to a street name, i.e., 0 Route 23, 0 Parkway South.

Another similar issue is the statutory requirement that the One Call System "promptly transmit to the appropriate operator" (see N.J.S.A. 48:2-76(c)) the information they receive from the excavator. Due to the lack of a site specific ticket and the fact many customers change operators, tickets for mark-out are being forwarded to the wrong propane companies. Clearly, this circumstance is not only costly to the operator but does not satisfy the statute and thus serve the public interest.

Finally, I am enclosing copies of screening summaries for mark-out tickets issued to three member companies which graphically illustrate the points made both in our January letter and this letter. Suburban Propane for the period of March 1-18th, 2001 was issued 634 tickets for mark-out, only 14 involved their locations.

Eastern Propane for the month of March was issued 81 tickets with only 2 mark-outs and H&H Propane had a total for March of 1531 tickets with only 32 actual mark-outs. For these companies alone, 98% of the tickets do not involve their locations. Obviously, administering a system with such a high "fail rate" is very costly and inefficient for my clients.

Thank you for your attention and we look forward to our meeting on Monday. I reiterate the New Jersey Propane Gas Association is desirous of reaching an amicable resolution to the issues, a resolution which will assist both our members and your agency in attaining our mutual goal, the safety of the public.

Sincerely yours,

Peggy Nelson
May 10, 2001
Page 3

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SGD: pmm
Enclosure

cc: William Curcio
Thomas Tarantino
Michael Merrill